

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NEWFIELD APPALACHIA PA LLC, :

Plaintiff :

V. : CIVIL ACTION NO. 3:10-CV-1388

DAMASCUS TOWNSHIP, :

Defendant :

ORDER

AND NOW, this 12th day of August, 2010, upon consent of the parties, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

1. Defendant, Damascus Township, by and through its Board of Supervisors, has formally resolved at a general meeting of the Board of Supervisors to advertise for adoption after proper circulation of said proposed legislation to all applicable planning agencies, an Ordinance amending the Damascus Township Zoning Ordinance to provide that the construction of oil and natural gas well drilling pads and other soil disturbance associated with oil and natural gas exploration and production shall be a permitted use in the Rural Residential Zone and the Industrial Zone, but shall be a prohibited use in the River District and the Neighborhood Development District. The proposed Ordinance shall further provide that any and all gas and oil exploration and production operations are preempted by state law, and that the Zoning

Ordinance shall not in any manner or form regulate or attempt to regulate said preempted activities.

2. Under the Pennsylvania doctrine of pending ordinances, the Board of Supervisors for Damascus Township agrees not to take any action to stop and/or interfere with Plaintiff, Newfield Appalachia PA LLC's oil and gas development activities, including, but not limited to, all activities and equipment used for well pad construction, drilling, well completion and production, on an approximately 41-acre piece of land located in the Township at Tax Parcel No. 186-37 (the "Subject Property").

3. Upon the adoption of the pending ordinance or an amended version of the pending ordinance providing for the construction of oil and natural gas well drilling pads and other soil disturbances associated therewith as permitted uses, Newfield Appalachia PA LLC or its successors or assigns shall meet the requirements for permitted uses by providing necessary information to the Township in a timely manner not to exceed thirty (30) days after formal adoption.

4. The Defendant, Damascus Township, further agrees that provided adequate information is given to the Damascus Township Board of Supervisors that any other surface location for permitted wells are within either the Rural Residential Zone or the Industrial Zone in which said activities are allowed, they will not take any action to attempt to stop and/or interfere with oil and gas development activities as hereinbefore described on any such located parcels.

5. It is stipulated and agreed that the "Enforcement Notice-Notice of Violation Stop Work/Cease-and-Desist Order" issued by the Township on July 2, 2010 regarding the property situated on Tax Parcel No. 186-37 and the "Enforcement Notice-Notice of Violation Stop Work/Cease-and-Desist Order" issued by the Township on July 25, 2010, regarding the property situated on Tax Parcel 217-33.4 shall not be prosecuted at the present time, and that prosecution will be suspended until a final decision is made on the pending ordinance. No penalties or other consequences shall attach during this period.

6. The Plaintiff's Motion for Preliminary Injunction is hereby dismissed without prejudice as moot.

7. The Plaintiff's Complaint for Declaratory Judgment is hereby agreed to be dismissed without prejudice, and this case is to be closed for case management purposes.

8. This Court shall retain jurisdiction to enforce the terms of this Order.

CONSENTED AND AGREED TO:

Barry Boone
Newfield Appalachia PA LLC

CONSENTED AND AGREED TO:

Jeff Dister, ^{Chair} Board of Supervisors
Damascus Township, PA

Date:

August 13, 2010

A. Richard Caputo
Hon. A. Richard Caputo